



2. The Tennessee Department of Commerce and Insurance, as Auto-Owners' statutory agent for service of process, was served with the Summons and Complaint on June 4, 2013. A copy of the Summons and Complaint served upon the Tennessee Department of Commerce and Insurance as agent for service of process for Auto-Owners Insurance Company is attached as ***Exhibit 1*** to this Notice of Removal.

3. This Notice of Removal is timely under 28 U.S.C. §1446(b) in that it is filed within thirty (30) days of service of the Complaint upon Auto-Owners. Auto-Owners is the sole defendant named in this action.

4. Pursuant to 28 U.S.C. §1441(a), a civil action brought in a state court over which a United States District has original jurisdiction may be removed to that District Court embracing the place where such action is pending. Because the State Court Action was pending in the Circuit Court for Knox County, Tennessee, this Court has removal jurisdiction, and venue is proper in this Court. *See* 28 U.S.C. §123(a)(1).

5. Auto-Owners removes the State Court Action to this Court pursuant to 28 U.S.C. §§1332 and 1441 on the grounds in that there is complete diversity of citizenship between Plaintiffs and Defendant, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

6. Plaintiffs Martin and Elizabeth Walter are citizens and residents of Knox County, Tennessee. *See* Plaintiff's Complaint, ¶ 1.

7. Plaintiffs Gary and Jan Wichrowski d/b/a B & G Properties are citizens and residents of the State of Florida. To the extent B & G Properties is considered a party to this case, Plaintiffs' Complaint alleges that Gary and Jan Wichrowski do business as B & G Properties, and as such, B & G Properties would have the citizenship of its owners or partners.

Based upon publically available information, their most current residential address is 1862 Eagles Point, Apopka, Florida 32712. The office of the Orange County, Florida Property Assessor lists this address as being owned by Gary and Janice Wichrowski and lists the property as a homestead. This information is publically available at the website of the Orange County Property Assessor at <http://www.ocpafl.org/searches/parcelsearch.aspx>, by searching for the last name "Wichrowski." A copy of the first page of the search results in printer-friendly format is attached hereto as ***Exhibit 2***.

8. Upon investigation, Plaintiff Gary Wichrowski is an attorney licensed to practice law in Florida. The publically available information from the website of the Florida State Bar (<http://www.floridabar.org/names.nsf/0/A2AD8E8F3EE57E6085256A84001CB1C6?OpenDocument>) indicates that attorney Gary Steven Wichrowski has been licensed to practice law in Florida since 1989 and has an address of 1862 Eagles Pt., Apopka, Florida 32712-2055. A copy of the search results from the website of the Florida State Bar is attached as ***Exhibit 3***.

9. In addition, the warranty deed for the property allegedly at issue in this case lists Gary S. Wichrowski and wife Janice Wichrowski being of Orange County, Florida. See Warranty Deed, attached as ***Exhibit 4***.

10. Defendant Auto-Owners is a Michigan corporation with its principal place of business in Lansing, Michigan.

11. There is complete diversity of citizenship as Plaintiffs are citizens of Tennessee and Florida, and Defendant is a citizen of Michigan.

12. The jurisdictional amount in controversy is satisfied as the amount at issue in this case exceeds \$75,000.00, exclusive of interest in costs.

13. Plaintiffs' Complaint demands judgment for breach of contract in an amount up to \$250,000.00 as well as prejudgment interest. *See* Complaint, Prayer for Relief.

14. Plaintiffs' Complaint alleges that Auto-Owners has breached its insurance contract with Plaintiffs. The limit of insurance listed on the policy attached to Plaintiffs' Complaint for the building located at 7620-22 Clinton Highway, Powell, Tennessee 37849 is \$549,100.00. *See Exhibit 1.*

15. Under Sixth Circuit precedent, a removing defendant satisfies the burden of removal and establishes the amount in controversy, "when it proves that the amount in controversy more likely than not exceeds \$75,000.00." *Everett v. Verizon Wireless, Inc.*, 460 F.3d 818, 822 (6th Cir. 2006). The evidence submitted with this Notice of Removal establishes and proves that the amount in controversy in this case exceeds the sum or value of \$75,000.00.

16. The jurisdictional amount in controversy is satisfied in this case as the amount in controversy in this action exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

17. Pursuant to, and in compliance with 28 U.S.C. §1446(b), and simultaneously with the filing of this Notice of Removal, Auto-Owners has served written notice of such removal upon Plaintiffs and will file a copy of this Notice of Removal with the Circuit Court for Knox County, Tennessee.

18. Auto-Owners respectfully reserves the right to submit evidence supporting this Notice of Removal should Plaintiffs move to remand.

WHEREFORE, notice is respectfully given that the State Court Action is removed from the Circuit Court of Knox County, Tennessee, to the United States District Court for the Eastern District of Tennessee, Northern Division.

Respectfully submitted this 3rd day of July, 2013.

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### **CERTIFICATE OF SERVICE**

I hereby certify that on July 3, 2013, a copy of the foregoing Notice of Removal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

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